

TN415.2 Policy

O. Court Leave / Witness Service

(1) Court leave: Employees are to record their absence from work due to jury duty as “administrative leave-other” on timesheet. Employees should provide supervisors with a copy of court documents calling employee to jury duty.

Because employees are on paid administrative leave while performing jury duty, employees are **required to refund to NRCS any payment received for their jury service**. Employees may keep reimbursements received for meals and/or parking, but they must refund the amount received for the jury service itself. Employees may simply endorse over to NRCS the check received from the court and mail it to the State Office Financial Management Section, or employees may cash the check received from the court and write a personal check to USDA-NRCS for the amount of the jury service payment.

(8) Witness Service: Employees are to record their absence from work due to witness service as stated in sections 415.2O(8)(i), (ii), or (iii) of the National General Manual.

(a) Federal Regulations (7 CFR, Part 1, Subpart K) state that employees of USDA may not make an appearance in response to subpoenas, summons, or other form of compulsory process demanding his/her appearance on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is not a party, unless specifically authorized to do so by the State Conservationist with the concurrence of the Office of General Counsel.

(b) Employees should not indicate willingness or express a desire to provide testimony. Based on the previously stated regulation, it is not the prerogative of the employee to determine whether or not to provide testimony or produce records.

(c) If a subpoena is received for either testimony or the production of records, employees are to follow these procedures:

- Immediately notify the supervisor and the State Administrative Officer (SAO). Fax a copy of the subpoena to the SAO.
- After the State Conservationist has made a determination, the SAO will notify the employee directly whether the appearance has been approved.
- If providing testimony is disapproved, the subpoenaed employee will be given (1) a letter from the State Conservationist stating the employee is prohibited from furnishing the testimony and (2) a copy of USDA regulations governing the testimony of employees.
- The employee will be instructed to appear in court as subpoenaed, present the items provided by the State Conservationist, and respectfully state that testimony cannot be provided based upon these documents.

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TN415.2O(8)(c)

- In the rare situation when an employee's appearance is approved, the employee will be informed by the SAO advising that the State Conservationist and the Office of General Counsel has approved the appearance and that the employee is to comply.
- Any subpoena requesting documents is to be sent immediately to the SAO in the same manner as a subpoena for testimony.

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(360-GM, Amend. TN43, Apr. 2005)